

**PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DEFENDANTS'
MOTION TO EXCLUDE EXPERT TESTIMONY OF THOMAS MCGUIRE**

EXHIBIT E

ANUPAM B. JENA DEPOSITION TRANSCRIPT (6/6/2019), MDL DKT.
#1978-17 AT 152:6-154:1

APPLIES TO ALL CASES

6 Hon. Dan A. Polster

9 HIGHLY CONFIDENTIAL
10 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

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<p>1 germane to mine.</p> <p>2 For example, McCann's report I 3 read page to page multiple times because I 4 spent half of my report talking about his own 5 report.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Okay. And let's just go 8 through them.</p> <p>9 David Courtwright's report, did 10 you read that cover to cover?</p> <p>11 A. No. The only report that I 12 would have read cover to cover would be 13 Mr. McCann's report.</p> <p>14 Q. Okay. So you didn't --</p> <p>15 A. And possibly Mr. -- Professor 16 Cutler's report as well, though that was a 17 little bit further back, and I only allude to 18 it very briefly in my own report.</p> <p>19 Q. You said possibly David 20 Cutler's report. Did you -- do you know one 21 way or another if you reviewed it cover to 22 cover?</p> <p>23 A. I reviewed the majority of 24 Mr. Cutler's report, and I reviewed the</p>	<p>1 A. No. So I can -- the 2 individuals -- several of these individuals 3 are at Harvard and MIT, so one of them is a 4 collaborator of mine on some work.</p> <p>5 Q. Who is that?</p> <p>6 A. That's Professor Gruber. We've 7 collaborated on projects. I wasn't aware 8 that he was involved in the opioid litigation 9 until an expert report was filed.</p> <p>10 David Cutler is a professor at 11 Harvard.</p> <p>12 Thomas McGuire is a professor 13 at Harvard.</p> <p>14 And Meredith Rosenthal is a 15 professor at Harvard.</p> <p>16 If I were to look back in my 17 social calendar in the last six months to a 18 year, I don't think I've had dinner with any 19 of these individuals. That would be one 20 proxy for your question.</p> <p>21 Q. Caleb Alexander, you said you 22 know him professionally. How do you know 23 him?</p> <p>24 A. I know him in a limited way. I</p>
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<p>1 entirety of Mr. McCann's report, and I 2 directed my team to review in detail each one 3 of these reports.</p> <p>4 Q. So we have this list of these 5 21 names. Do you know any of these 6 individuals professionally or personally?</p> <p>7 A. Some of these individuals I 8 would know professionally.</p> <p>9 Q. Okay. Which ones do you know 10 professionally?</p> <p>11 A. So Number 3, Professor Caleb 12 Alexander; 4, Professor Cutler; 6, 13 Professor Gruber; 11, Professor McGuire; 13, 14 Professor Rosenthal. And I believe that's 15 it.</p> <p>16 Q. Okay. Do you know any of these 17 people personally?</p> <p>18 A. What do you mean by 19 "personally"?</p> <p>20 Q. Well, like you know someone in 21 a professional capacity, maybe you interact 22 with them in a working manner, but maybe some 23 people you know them socially is what I'm 24 asking.</p>	<p>1 think we had some overlap at the University 2 of Chicago. He's now at Johns Hopkins, and 3 he's been there many years. I probably saw 4 him last maybe six years ago, five or six 5 years.</p> <p>6 Q. We talked about David Cutler. 7 You know him from Harvard?</p> <p>8 A. Yes.</p> <p>9 Q. Jonathan Gruber?</p> <p>10 A. From MIT.</p> <p>11 Q. You know him from when you were 12 an undergrad there?</p> <p>13 A. No. I do not know him from 14 undergrad. I don't know if he was there when 15 I was an undergrad. He may not -- that was a 16 long time ago.</p> <p>17 Q. Yeah. So that's what I was 18 just clarifying for the record.</p> <p>19 So you know him because you -- 20 because you're both in Boston, you interact 21 with him?</p> <p>22 A. Exactly. These are all very 23 good health economists.</p> <p>24 Q. Thomas McGuire?</p>

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<p>1 A. Also at Harvard.</p> <p>2 Q. And Meredith Rosenthal, same</p> <p>3 thing?</p> <p>4 A. Yes, also Harvard.</p> <p>5 (Whereupon, Jena Exhibit</p> <p>6 Number 7 was marked for</p> <p>7 identification.)</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Handing you what's marked as</p> <p>10 Exhibit 7. Take a minute to look at</p> <p>11 Exhibit 7. Let me know when you're done.</p> <p>12 A. I'm done.</p> <p>13 Q. Okay. Can you tell me what</p> <p>14 Exhibit 7 is?</p> <p>15 A. Sure. Exhibit 7 is Appendix C</p> <p>16 in my report. It reports Materials</p> <p>17 Considered.</p> <p>18 Q. This is a true and correct copy</p> <p>19 of all the materials considered?</p> <p>20 A. I believe so.</p> <p>21 Q. To your knowledge, there's</p> <p>22 nothing that you considered that's not in</p> <p>23 here?</p> <p>24 A. That's correct.</p>	<p>1 facility, as well as the headquarter, had in</p> <p>2 place to prevent the diversion of opioids.</p> <p>3 Q. And that's how this list was</p> <p>4 created?</p> <p>5 A. That is correct.</p> <p>6 Q. Do you know how the team</p> <p>7 obtained access to the documents?</p> <p>8 A. They had access to all the</p> <p>9 documents that have been produced in the</p> <p>10 litigation.</p> <p>11 Q. Okay. Do you know physically</p> <p>12 how they had that access?</p> <p>13 A. "Physically," can you clarify</p> <p>14 what you mean?</p> <p>15 Q. How did they gain access to all</p> <p>16 the documents in the litigation?</p> <p>17 A. How -- do you mean by computer</p> <p>18 or what --</p> <p>19 Q. Whatever --</p> <p>20 A. -- legal authority gave them</p> <p>21 that?</p> <p>22 Q. Whatever method they used.</p> <p>23 A. Oh, I would assume that most of</p> <p>24 it is electronic, and maybe through servers,</p>
<p>1 Q. To your knowledge, is there</p> <p>2 anything that you didn't consider that's in</p> <p>3 here?</p> <p>4 A. No.</p> <p>5 Q. Partway through we have -- if</p> <p>6 you'd go to C-5. So C-5 through C-11 makes</p> <p>7 reference to documents in the litigation.</p> <p>8 A. Yes.</p> <p>9 Q. Let me know when you're there.</p> <p>10 A. I'm there.</p> <p>11 Q. Okay. How did you come to</p> <p>12 obtain these specific documents?</p> <p>13 A. My team had full access to the</p> <p>14 documents that are produced in litigation,</p> <p>15 again, as well as my other research and</p> <p>16 publicly available documents. And in forming</p> <p>17 my outline and in devising a strategy to</p> <p>18 thinking about the quality of anti-diversion</p> <p>19 at Rite Aid, as well as other related issues,</p> <p>20 I asked my team to search through documents</p> <p>21 specifically within Rite Aid, but also other</p> <p>22 places, to document exactly what are the</p> <p>23 different processes and structures that the</p> <p>24 organization, Mid-Atlantic distribution</p>	<p>1 maybe through disks. I'm not sure in each</p> <p>2 one of these cases how the specific document</p> <p>3 was obtained.</p> <p>4 Q. Okay. Did you personally</p> <p>5 review any of these documents?</p> <p>6 A. Yes, I have reviewed some of</p> <p>7 these documents.</p> <p>8 Q. Do you know which ones?</p> <p>9 A. If we went through my report,</p> <p>10 the specific documents that I call on in the</p> <p>11 report itself as opposed to in the materials</p> <p>12 considered, each one of those documents I</p> <p>13 would have -- I would have reviewed</p> <p>14 personally, as well as other documents that</p> <p>15 are in the materials considered that I may</p> <p>16 not have cited in the actual report itself.</p> <p>17 Q. How did you come to access the</p> <p>18 documents?</p> <p>19 A. I would access them through a</p> <p>20 computer provided to me as a PDF file.</p> <p>21 Q. Okay. So the team would send</p> <p>22 you a PDF of certain documents?</p> <p>23 A. That's correct.</p> <p>24 Q. Via e-mail or something?</p>